

Mr. SCOTT of Virginia: Mr. Speaker, S. 3642, the Theft of Trade Secrets Clarification Act, will help ensure that American businesses can effectively protect their trade secrets. This legislation passed the Senate by unanimous consent last month, and we are proud to be passing it today.

S. 3642 responds to a recent Federal court decision that exposed a gap in Federal law. In April of this year, the Second Circuit Court of Appeals held that the Federal statute prohibiting the theft of trade secrets does not apply to computer source code in some circumstances.

In the Aleynikov case, the defendant, a computer programmer who worked for Goldman Sachs, electronically copied and remotely stored thousands of lines of source code from the company's internal, high-frequency trading system and then downloaded that code to his new employer's server after leaving Goldman Sachs.

The transfer of the source code would potentially save up to \$10 million and 2 years of programmers' time for the new employer and would eliminate some of the competitive advantage Goldman Sachs achieved by developing their own trading program.

Federal law prohibits the conversion of any trade secret that is related to or included in a product that is produced or placed in interstate or foreign commerce. Because the code that was stolen is a component of an internal computer system, the court found that it is not covered by the statute because it was not produced for, or placed in, a product in interstate or foreign commerce.

This bill will close the gap exposed in that case by clarifying that the statute applies to both products and services which are used in or intended for use in interstate or foreign commerce.

Congress needs to act quickly to enhance the ability of American businesses to safeguard the proprietary information they develop to gain a competitive advantage. This is particularly important as our country's economy is increasingly knowledge- and service-based.

We must ensure that our statutes designed to prohibit the theft of trade secrets appropriately cover the range of intellectual property generated and used by our businesses.

This bill is an important step to accomplish this goal, and I commend the senior Senator from Vermont, the chair of the Judiciary Committee in the Senate, Mr. Leahy, for his leadership on the bill; and I urge my colleagues to support this legislation so it can be sent directly to the President's desk to be signed into law.